Allegations of left-wing bias in the BBC flew thick and fast in 1985, when it was persuaded to postpone and re-edit a documentary, *Real Lives*, on Republican leader Martin McGuinness, and DUP Councillor Gregory Campbell.

Following the shooting dead of three unarmed IRA members in Gibraltar in 1988, Thames TV's *This Week* team made a programme, "Death on the Rock", which challenged the official version of the incident. The government attempted to prevent its showing in the UK by alleging that it would prejudice an inquest in Gibraltar. The programme was shown as planned, as was a similar documentary in the BBC NI *Spotlight* series, both attracting a great deal of invective from the press and government. The programmes were banned in Gibraltar.

The government expressed such outrage that Thames felt the need to commission a special inquiry into the programme, and published the resulting report[22] as a paperback book. The report, the commissioning of which caused some misgivings among media professionals, vindicated the programme and presented a detailed and useful study of the law, practices and procedures affecting investigative journalism on TV.

Another censorship case based on the suggestion that broadcasts would prejudice a court hearing involved a Channel 4 project. The station proposed to film nightly re-enactments of ongoing proceedings in a December 1987 appeal against the conviction of the "Birmingham Six" whose claims to be innocent of IRA bombings had found widespread public support. The series was stopped by the Appeal Court on the grounds that it would undermine confidence in the legal system and so would amount to contempt of court.

Using journalism for intelligence purposes

On a number of occasions the unique position of journalists has been exploited, and severely jeopardised, by security forces

22> *The Windlesham-Rampton Report on Death on the Rock*, Faber and Faber, London, 1989

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

seeking to gather intelligence or prosecution evidence. Three forms of abuse are involved: the falsification of press credentials; seizing journalists' materials or forcing them to give evidence in person; and private pressure on journalists to pass on information. Each such incident creates difficulties for journalists by presenting them as proxy spies.

In 1972 RTE editor Kevin O'Kelly was imprisoned for three months, by a Dublin court, after refusing to identify the then chief-of-staff of the IRA, whom he had interviewed. BBC TV reporter Bernard Falk was jailed for four days in a similar case in Northern Ireland in 1971.

There were a number of reports around 1974-77 of undercover British Army personnel carrying faked press cards. After protests from the NUJ, and the shooting of one agent by the IRA, the practice apparently ceased. In 1988, however, an Army video crew observing a Republican procession told locals that they were working for a British television company. An apology was subsequently issued.

In November 1979 the BBC's *Panorama* programme filmed IRA activities in Carrickmore, Co. Tyrone. After sections of the press and some MPs condemned what they regarded as collusion in IRA propaganda, the untransmitted film was seized under the PTA; the editor was sacked by the BBC (but later reinstated) and the programme was abandoned.

In March 1988 two British Army corporals were shot dead after driving into a Republican funeral procession in Andersonstown. Some 27 photographers and journalists were subpoenaed to give evidence at the six ensuing trials and quantities of film, tape and prints were seized under the EPA. Two of those called to give evidence, BBC NI Head of News John Conway and reporter Korky Erskine, had death threats made against them and were removed to England for their own safety. The court forbade the publication of the names of most of the witnesses, or of court artists' sketches of them.

Attacks on prominent politicians

It is arguable that every politically-motivated killing, assault or threat is an act of censorship, in that it interferes

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

with the rights of opinion and expression of the victim. A more clear-cut case is where the murder is that of an elected representative or party functionary; the probable intention is to prevent that person from communicating his or her views, and to intimidate others.

Since the commencement of the Troubles, most such attacks on politicians have been directed at those who were themselves members or supporters of violent groups (for example, the wounding of Gerry Adams MP, and the murders of Republicans Máire Drumm, Miriam Daly, Ronnie Bunting and Noel Little, and UDA leader John McMichael).

Several Unionist or Conservative personalities have been killed by the IRA or INLA (Senator Jack Barnhill 1971, Airey Neave MP 1975, Sir Norman Stronge and Robert Bradford MP 1981, Councillor Charles Armstrong and Edgar Graham 1983, Anthony Berry MP 1984, ex-Cllr George Seawright 1987, Colin Abernethy 1988) or wounded (John Taylor MP 1972, Cllr Joe Gaston 1975, Cllr Billy Dickson 1982, Cllr David Calvert 1987). A Fine Gael senator, Billy Fox, was murdered in the South in 1974.

On the Nationalist side, fewer have been killed by Loyalist paramilitaries (Senator Paddy Wilson 1973, Cllr John Turnly 1980, Cllr Lawrence Kennedy 1981, Cllr John Davey 1989) or injured (Bernadette McAliskey 1981). There have been many unsuccessful assassination attempts or conspiracies against both Nationalists (Frank McManus MP 1973) and Unionists (Thomas Passmore 1976, Rev. William Beattie 1982, Cllr Gregory Campbell and the Conservative leadership and Cabinet 1984, Jim Nicholson MP 1987, Ken Maginnis MP and William McCrea MP 1988).

There have been countless physical attacks and threats against the persons, family and property of non-violent political activists. Such incidents, together with the more serious assaults and the stress and inconvenience associated with maintaining personal security, provide a powerful deterrent against entering into or remaining in public life, and an incentive to "keep a low profile" which is self-censorship by another name.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Harassment of political activists

There are frequent reports, especially at election times and from the Republican camp, of security forces in Northern Ireland harassing, arresting and intimidating party workers in the course of distributing posters, papers and other promotional material, or maltreating them while in custody. Sinn Féin made many such allegations to the media in the course of the 1989 local government elections in Northern Ireland.

There is no easy way of independently establishing the truth or otherwise of most such claims, but there have been a few court cases: for example, SF councillor Noel Carroll was awarded damages in February 1988. (More than £315,000 was paid in the five years to April 1989 to 160 persons assaulted or wrongfully arrested or imprisoned by the Army and UDR, but the government refused to tell a Unionist MP how many of those involved were councillors, and would not give figures relating to claims against the RUC.) There have also been many army raids on SF premises, and occasional seizures of the party newspaper *Republican News*, especially in the 1970s.

The rights of expression of Irish political groups have also been interfered with in Britain; state action is generally limited to surveillance and infiltration, but unofficial groups frequently use violent tactics. There are many recorded instances of ultra-right groups such as the National Front, the British Movement and the British National Party launching attacks on Republican marches and meetings.

News management and disinformation

Both the state and the various paramilitary groups in Northern Ireland have been accused of falsifying information to obtain or influence media coverage. Disinformation or "black propaganda" activities, as distinct from the normal public relations activities of the state and private bodies, interfere with the public's right to receive information.

There is a grey area between disinformation and PR which might be termed news management, that is, the staging of events or the use of other power or influence to secure or affect

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

media coverage. Whether this is an infringement of information rights is open to debate. The press, PR and advertising budget for the Northern Ireland Office currently stands at about £7.5 million per year; this is largely spent in routine publicity and information activities, but a proportion of it funds propaganda campaigns planned by "information policy" or "information strategy" groups.

By definition a successful disinformation effort is one which is never exposed as such, so that the only known examples are those which have been frustrated by disclosure. "Black propaganda" exercises, and "psyops" (psychological operations) by the Army and other security agencies reportedly occurred on a large scale especially in the period 1972-76, but continued into the 1980s.

Stories carried uncritically in the British press, with no factual basis and almost certainly "planted", included one in 1972 (after Bloody Sunday) about a supposed IRA plan to dress up as soldiers and shoot civil rights marchers. People were reported to be beating themselves up in police or army custody; a police surgeon who gave evidence to the contrary was slandered; the IRA was reported to be using 8-year-olds to throw bombs, hiring Czech hitmen, training in Libya, plotting to kidnap English villagers, and raping teenagers in Belfast; unarmed victims of some police army shootings were falsely reported to have been armed, or to have sped through non-existent roadblocks. At least three individuals named by papers as leading IRA terrorists in Britain were discovered living peacefully in Ireland. A libel on a Unionist leader was planted in a German magazine, fake Loyalist paramilitary groups were set up, and a mix of genuine and spurious intelligence data was supplied to the press and politicians.

News management could be said to include events such as that in 1979 when the BBC filmed the IRA "take-over" of Carrickmore. The journalists involved found themselves accused of having served as tools of the IRA, but had they failed to use the opportunity, they would have laid themselves open to charges of censorship. (That is perhaps the sort of moral dilemma that Mr Hurd had in mind when he maintained that broadcasters might prefer straightforward rules to having to decide what to do on a case-by-case basis.) On the government

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side, the preferred tactics are to secure coverage by staging media events and photo-opportunities designed to illustrate the government's commitment to the province and the "normalisation" of the situation; and, more questionably, to feed selected journalists with briefings to ensure that the government perspective is put without attribution. One instance (admitted by the UK Defence Secretary in March 1989) was the distribution of a document rubbishing a Thames TV documentary on the Gibraltar killings.

Other instances are rather different in that they concern the use of state power to grant access to information which would otherwise be unavailable. In the summer of 1989 the BBC screened a documentary series, *Families at War*, which included a lengthy interview with Shane Paul O'Doherty, then serving 30 life sentences for an IRA bombing campaign. The interview was clearly considered permissible, and transmissible, only because O'Doherty had renounced the IRA and violence. At about the same time, that is for the 20th anniversary of the arrival of British troops in Belfast and Derry, ITV was permitted to film a documentary (*For Queen and Country*) which dealt with the life of British troops in Northern Ireland, with apparently uncensored and somewhat robust views being expressed by the "squaddies". In both cases there must have been a political decision taken to permit access, presumably in the belief that the end product would further the objectives of the government.

The position of the Irish language

Many Unionists are inclined to view the Irish language - taught almost exclusively in Catholic schools, rather than state schools - as something subversive. The language is not widely spoken and survives mainly in transliterated place-names and personal names; there are no longer any legal penalties for its use in Northern Ireland, but those who seek to use it encounter certain problems.

Those who use the historic Gaelic spellings of their personal names, rather than anglicised versions, find that unfavourable assumptions are made by prospective employers and security force personnel about their political orientation. Occasional

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prolonged and hostile questioning as to one's "real" name is the least inconvenience that may be expected. Prisoners have been refused permission to correspond in Irish or to have Irish bibles. It is still the law that local authorities may not erect bilingual street or road signs.

Problems also arise in relation to access to the media. Some NI newspapers such as the *Coleraine Chronicle* and the *Northern Constitution* have a policy of censoring any Irish words; others which have allowed the occasional phrase to appear in an unremarkable context, for example the September 1989 use of the words *fleadh cheoil* (an Irish music festival) in the Belfast *Sunday News*, have published complaints from readers appalled at the intrusion of "alien" expressions into columns which ought to be devoted exclusively to "the Queen's English".

There is some cause for optimism, however. Registrars of births no longer routinely alter Irish forenames to "acceptable" spellings, as used to be the practice, and there appears to be an increasing awareness of the desirability of recognising and respecting the diverse cultural inheritances of the two communities.

Other informal censorship

Throughout the decades of self-rule in Northern Ireland members of the Westminster Parliament observed a convention of ignoring the "internal" affairs of the province. Under direct rule Westminster has become the only parliamentary forum for Northern Ireland and there are numerous, if rarely well-attended, debates and speeches on its problems. However, the damaging legacy of the fifty-year silence may be seen in the new convention that important legislation for the province is implemented by means of Order in Council, which restricts debate and allows for no amendments. The 17 Northern MPs are rarely able to determine the outcome of any vote and there is nothing akin to the Scottish MP's Grand Council which functioned as a sort of provincial senate.

It has been argued that the continuing refusal of the main British political parties to permit the formation of branches

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within Northern Ireland, despite their professed commitment to the Union and despite the reported wishes of a large section of the province's population, constitutes a form of censorship in that it prevents the policies of the parties which rule the province from being placed officially before the local electorate, and prevents those ruled by those parties from informing and influencing party policy.

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5. SELF-CENSORSHIP

The term "self-censorship" has arisen to describe cases where writers and media personnel either refrain from covering sensitive topics or opt to cover them in a restricted way, other than as a result of censorship imposed from above. Examples would be an over-zealous exclusion of dissent from RTE television programmes beyond that demanded by Section 31, or a newspaper's decision to refrain from publishing IRA statements in the interests of "depriving terrorism of a platform".

Self-censorship may operate only momentarily, within the mind of a journalist, in which case it may be quite voluntary and may be motivated by some concept of "responsible journalism"; or it may acquire a life of its own either as a strategy to preserve one's job or as an aspect of the editorial function within a media organisation. It may then be imposed by senior editors or managers, or by broadcasting authorities, on lower-ranking journalists and programme-makers.

It is important to understand that the term is not strictly accurate. The self is not censored; what is censored is information, and the victim is not so much the journalist, nor the person or group whose views go unreported, as the information requirement of the intended audience. Self-censorship is thus as effective and pernicious as any other form of censorship. To withhold political information voluntarily, even when it is not legally necessary to do so, is to impoverish democracy by disabling debate. In Ireland today it is very possible that irresponsible self-censorship, by impeding rational debate, prolongs armed conflict: careless silence, then, can cost lives.

Self-censorship is peculiarly difficult to diagnose or document. The first problem is in distinguishing between it and the duty of editors and journalists to provide analysis and interpretation of what they see as important in the whole range

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of current events: they have no duty to report only the bare facts, nor to report all the facts, nor to draw clear lines between news, news analysis and comment. Their purpose is not to compile a vast catalogue of events but to select from them and to explain their context and significance: thus an element of selectivity and weighting, or bias, is actually required of the media, and in principle one should be able to choose the medium which most nearly corresponds to one's own information needs, world-view and priorities.

The second problem is that, even in the complete absence of government interference, market forces militate against a free press. There are political dimensions to the relationship of journalist with news medium, and of medium with owner. The journalist is more likely to find his/her work printed if it starts from a political perspective aligned with that of the medium, so s/he may toe the line; if unconsciously, is it self-censorship? By extension, should a medium which ignores views outside its political perspective be regarded as self-censoring? It is a universal truth that media owners - including governments - lay down standards or objectives for their media (possibly including broad support for a particular party or for the "middle ground"); management and senior editors are required to formulate and impose policy as to news priorities and political lines, and sub-editors and journalists are hired on the expectation that they will operate effectively within such policy. Private media proprietors are usually wealthy individuals or groups whose interests coincide with mainstream political parties, and it is reasonable to expect their interests to be reflected in the product of their media. That is certainly the case in Britain, and to some extent in Ireland. To suggest that it is somehow unfair for, say, a Conservative newspaper to edit or refuse a Marxist journalist's analysis of government policies is to suggest that newspapers have no right to be Conservative. The broadcasting oligopoly is a different case: whereas people choose from the many newspapers according to their political orientation, the public in Britain and Ireland expect something close to impartiality of the broadcast media.

The third problem is in distinguishing between censorship required by law and that which oversteps the minimum legal

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requirements. That applies not just to those monitoring the operation of the law but to journalists and editors obliged to work within it: from the day the UK broadcasting ban was announced, Home Office advice and legal opinion has been sought on many occasions as to what may or may not be heard. The uncertainties arising from imprecise terminology in the relevant legislation and executive orders have inevitably led some broadcasters to err on the side of caution; that may, of course, have been foreseen and intended when the drafting took place.

Finally, there is real difficulty in persuading some of those who exercise it to acknowledge that self-censorship exists. Members of the NUJ have a Code of Conduct, several clauses of which are concerned with defending freedom of the press, accuracy and refusal to suppress or distort the facts. This public rejection of self-censorship makes it difficult for journalists to admit, even in private, that it occurs at all. It is thus impossible to quantify the extent of self-censorship.

Discussion of the ways in which self-censorship may arise from or affect the Irish Troubles should be mindful of Holmes' dog: often the absence of barking is the true indicator that all is not well. In relation to the press and broadcasting industries of the Republic of Ireland and Great Britain, the truly remarkable feature of their reportage and analysis of the Northern Ireland conflict is that there is so little of it.

The newsworthiness of an event may be directly proportional to the distance at which it occurs from the headquarters of the media institutions. Northern Ireland is no longer a story. It rarely makes the front page of British newspapers, or the lead item in TV or radio news, unless some atrocity has occurred. In addition to the difficulties of covering a province of which they know little, British broadcasters now have to cope with editors, managers and ultimately the government looking over their shoulders, to ensure that their work stays on the right side of the new censorship rules. Far easier, if one is planning a documentary series or even a lengthy news feature, to consider a less contentious theme.

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Broadcasting in the UK

It is difficult to say at what point the "referral upwards" system which has evolved in both commercial and public broadcasting in reporting Northern Ireland [23] ceases to be voluntary self-censorship by ITV, the BBC or their constituent parts, and becomes informal censorship resulting from behind-the-scenes government pressure (covered in Chapter 6); that is particularly the case when the relevant decision is taken at the highest level, meaning, in the UK, at the top of the BBC or by the IBA (formerly ITA). In any case its effect is to inhibit reporting of news and current affairs by requiring prior authority for what would otherwise be within the discretion of individual journalists and programme-makers.

Pre-ban self-censorship by the UK broadcasting authorities

Given the centrality of Republican ideology to the dynamics of the Irish Troubles, and the role of Sinn Féin as the main legally-constituted exponent of that ideology, one might expect the national broadcast media to take frequent opportunities to present and analyse SF policies and activities. According to the Shadow Home Secretary, ITV broadcast a total of just four minutes of interviews with SF members in the year before the broadcasting ban came into effect. Since there was no legal obstacle it would seem that voluntary restraint by the broadcasting authority and companies was operating to a degree that would suggest that the ban was superfluous.

That restraint has mainly operated invisibly and by consent of most of those in the industry; Roger Gale MP (Cons.), a former broadcast journalist, has said that "historically there has been a clear understanding among [broadcasters] that you do not give promotional airtime to terrorists" [24]. However, in the course of the past 20 years there have been several occasions when the caution of senior staff has exceeded that of their juniors, resulting in executive intervention to alter or stop

23> see Curtis 1984
24> *The Times* 20.10.88

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

sensitive programmes. These cases are self-censorship only insofar as the censorship arose within the broadcasting organisations concerned.

In 1970 the BBC commissioned a play about Northern Ireland by Jim Allen (later the author of the controversial play *Perdition*). The corporation abandoned the project during writing.

In 1971 the BBC considered whether to ban the broadcast of interviews with Irish Republicans, but opted instead for "a scrupulous editorial watch" over reporting the North and a firm policy of "balance"; IRA interviews could be recorded with prior permission from senior management, but from April 1971 that permission was almost always withheld and the rule was later extended to Loyalist paramilitaries [25].

There were only three IRA interviews on the BBC in 1971, one in 1972, none at all in 1973, one in 1974 and none in 1975-84; the INLA was interviewed twice, in 1977 and 1979. Independent TV never interviewed the INLA and carried perhaps six IRA interviews. Even the legal groups affected by the 1988 ban appeared very infrequently in broadcasts. Those 13 years of a virtual ban included the bloodiest phases of the Troubles, with some 2,400 deaths.

In August 1971 the BBC prevented its *24 Hours* series from making a programme about the history of the IRA; in September it failed to transmit an interview with an ex-internee, Michael Farrell, about prison conditions; and in November the ITA banned a Granada *World in Action* programme including IRA and SF interviews on the assertion of ITA Chairman Lord Aylestone that it would be "aiding and abetting the enemy". In the same year Independent Television News (ITN) refused to transmit a report on Derry city, and the BBC delayed another *24 Hours* feature about maltreatment of internees.

The IBA viewed a Dominic Behan play, *The Folk Singer*, before authorising its transmission in November 1972; it was broadcast at a later hour than non-Irish plays in the same series. In the same month the BBC refused to show a film,

25> see Schlesinger 1987

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A Sense of Loss, which it had co-financed; the explanation was that the film was "too pro-Irish". In 1975 the IBA postponed a *This Week* report on IRA fund-raising on the grounds that "the subject matter could have an unfortunate impact on opinions and emotions"; the implications are (a) that it is the subject matter, rather than the content, of a broadcast which is sensitive, and (b) that the TV authorities have the duty and ability to distinguish between factual programmes with a "fortunate" or "unfortunate" impact on "opinions and emotions".

In 1976 the BBC banned a play by Brian Phelan, *Article 5*, because it referred in passing to Northern Ireland as a place where torture was used by a government; in 1977 it refused to transmit a commissioned documentary on the Short Strand area of Belfast. Also in 1977 the IBA banned a Thames *This Week* report on Queen Elizabeth's visit to Northern Ireland, just two minutes before transmission; it was shown days later after some cuts were made. The reporter involved, Peter Taylor, had another NI documentary project rejected in 1978 by Thames and the BBC.

In May 1978 a documentary on the IRA in London Weekend TV's *Weekend World* series was banned by the IBA, but an altered version was allowed to be shown three weeks late. A *This Week* report on the Amnesty International investigation of RUC interrogations was banned by the IBA in June. In August the BBC showed a much-delayed and altered *Play for Today* about a bombing trial.

In May 1979 the IBA, responding to protests from MPs, ordered the removal of an SF interview from David Frost's *Global Village*. Yorkshire TV acquiesced. In August the BBC cancelled a play, *The Vanishing Army*, because of the Warrenpoint and Mountbatten killings. A March 1980 BBC2 documentary about British soldiers was denounced in the House of Commons, so the BBC banned repeats and foreign sales. In the same year, responding to the Carrickmore incident (see Chapter 6), the BBC cancelled another *Panorama* on the IRA and tightened up its "referral upwards" system; controversial programmes on Northern Ireland were

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

thereafter referred as high as the Board of Governors, which has since 1985 claimed the right to over-rule the BBC management on such issues.

The IBA demanded a 33-second cut in a Thames *TV Eye* film on the hunger strikes in April 1981. In June Granada withdrew its *World in Action* programme, "The propaganda war", rather than make a similar cut ordered by the IBA. In September the BBC appeared to subscribe to an alternative logic to that of the 1988 ban in deciding that factual images, rather than opinionated voices, conveyed most offence: they refused to show a video on *Top of the Pops* which illustrated a song by *Police* with shots of Belfast street scenes.

BBC2's *Open Door* access slot proved not quite open enough for the Campaign for Free Speech on Ireland, which won approval for a programme in November 1979 but was banned from making it in January 1982. In October 1983 a Channel 4 film, *The Cause of Ireland*, had six minutes excised at the insistence of the IBA.

The censorship controversy arising from the *Real Lives* documentary in 1985 is discussed in Chapter 6.

Pre-ban self-censorship by UK local television companies

In July 1966 Ulster Television (UTV) refused to show a networked *This Week* programme which presented an unflattering portrait of Rev. Ian Paisley. In June 1968, despite considerable internal debate, BBC Northern Ireland refused to make a programme about the Dungannon housing dispute which was central to the development of the civil rights movement, and for two days in August 1969 it anticipated the 1988 ban by deciding not to transmit actuality broadcasts of "sectarian opinion".

In July 1970 BBC NI refused to transmit a *Panorama* programme on the Troubles. In February 1971 NI Controller Waldo Maguire delayed a *24 Hours* programme on dissent within the Unionist Party until the resignation of the then NI Prime Minister made the film redundant; and later that year the BBC filmed, but never transmitted, the proceedings of a

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Nationalist "alternative parliament". The next year Maguire persuaded BBC Controller of TV David Attenborough to delay transmission of a Dominic Behan play, *Carson Country*, until after the province's summer "marching season".

In February 1973 Sir Lew Grade, head of ATV, banned Kenneth Griffith's film biography of the long-dead Southern leader Michael Collins. Another Griffith documentary on Ireland was banned by Harlech TV in March 1980. In October 1976 a BBC Scotland documentary had an IRA interview excised at the insistence of the Controller NI but a UDA interview was left in. In 1978 BBC NI forced changes to two programmes in a documentary series, *The Irish Way*; the director resigned. In August 1978 UTV dropped an Ulster-set episode from an Army drama series, *Spearhead*.

A singularly vivid example of the rationale of self-censorship arose in November 1979, when a BBC NI *Spotlight* discussion of the Carrickmore *Panorama* incident was cancelled because the Corporation's higher management would not provide someone to represent it and "balance" the discussion: the BBC thus found itself censoring a BBC programme about a censored BBC programme, because of the BBC's refusal to appear on the BBC.

A delayed, cut and altered Thames film, *Creggan*, was screened in June 1980 and won great praise, but it has been refused repeat showings. In March 1983 Yorkshire TV stopped a *First Tuesday* documentary on plastic bullets after pressure from the RUC and the IBA. In the same year Channel 4 dropped an *Eleventh Hour* feature, "The Cause of Ireland"; it withdrew Gerry Adams' invitation to appear on *Right to Reply* after the Harrods bombing; and most absurdly, it dropped Irish passages from its *Comedy Classics* series featuring Norman Wisdom, Paul Hogan and others.

In 1984 Yorkshire dropped Adams from the Jimmy Young chat show, and Channel 4 repeatedly delayed a film, *Green Flutes*, about Glasgow Irish bands. In 1985 a *Panorama* on the shoot-to-kill controversy was delayed for a year in all, and has not been repeated despite winning a Royal Television Society award. BBC2's *Newsnight* declined a CBS report about the *Real Lives* case, and BBC Scotland withdrew an invitation to Adams to appear on *Open to Question*. The BBC postponed an

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Open Space feature made by Loyalist and Republican prisoners' families; UTV cut a five-minute sequence from its religious programme *Witness*, ITV cancelled the broadcast of a Midnight Mass from a Belfast hospital and the BBC cancelled a *Songs of Praise* from Dungannon because of Protestant objections.

In 1986 the BBC cancelled a *Question Time* from Belfast, and stopped its live coverage of the 12th July marches; Channel 4 dropped a 12-minute video commissioned from Belfast children and dealing with plastic bullet killings. 1987 was a better year, but in 1988 Channel 4 postponed a film, *Acceptable Levels*, solely because it coincided with the Birmingham Six appeal; the same station withdrew Gerry Adams' invitation to appear on a late-night talk show after other guests objected.

Broadcasting under the UK ban

There is just one sense in which the 1988 ban could have had a beneficial effect on broadcast coverage of Northern Ireland. Whereas the instances cited above of national and local interference and censorship of one kind or another were somewhat unpredictable, subjective and arbitrary, the ban systematised the censorship and set out its legal, administrative and ideological basis. Before the ban programme-makers never knew at what level, or on what grounds, their approach would cause offence and bring in the censors: now at least they can be sure that certain types of approach are not permitted, and if they were sufficiently courageous they could use the specificity of the ban as implying a blanket permission to cover topics and individuals not expressly covered by it. Moreover the formalisation of what were hitherto vague taboos provided a better opportunity for mounting an effective challenge to the restrictions.

Some, including the British Home Secretary, Douglas Hurd, went so far as to suggest that the ban would actually be welcomed by broadcasters:[26]

26> *Hansard* 19.10.88

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

From their point of view it is more clear and straightforward... to operate under a notice of this sort, for which I take responsibility and which the House will debate, than to have to operate at their discretion, sometimes in difficult circumstances... What it does is to state clearly and precisely an obligation with which the broadcasters have been wrestling, case by case and programme by programme, with some difficulty for many years... As they reflect on it they will see that this gives them a clearer and better way to proceed than they ever had.

In fact while the ban's restrictions have been rigorously enforced, there has been no concomitant relaxation in dealing with controversial topics or persons outside its terms. The effect has been quite the reverse. The ban has been given an over-wide interpretation in practice, and broadcasters have become ever more cautious in all their activities in relation to the province.

Apart from the continuing paucity of coverage of Northern Ireland since the imposition of the 1988 ban, which could be ascribed to all sorts of reasons other than disinclination on the part of programme- makers, self-censorship may be evident in the subjects or approaches adopted or avoided in those programmes which are screened. There has been a consistent unwillingness to test the ban to the legal limits, and a willingness to censor far beyond the requirements of the ban.

No broadcast journalist has yet gone on record as approving of the ban. On the other hand, none seem to have openly disobeyed it; that is only evidence of self-censorship if the concept can reasonably be extended to the failure to do illegal things rather than the failure to exercise freedoms available within the law. That may be the view of the 10 Labour MPs who signed a Commons motion stating that there was no duty to obey this "unjust law".

The press office of Sinn Féin in Belfast has reported a 75 per cent decline in UK broadcast media enquiries since the ban

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

was imposed, and other radical Nationalist "media personalities" say that their invitations to appear on BBC or IBA programmes have declined markedly.

A failure of imagination

The easiest way for broadcasters to register a lawful protest at the ban is for them to observe it to the letter, which means employing their creativity and the best legal advice to find ways of maintaining their previous level of coverage of the affected organisations. Their approach to date has been unimaginative: there have been few attempts to test the limits of the ban, and the extra work involved in preparing pre-recorded material for transmission appears to have operated as a real disincentive. The public is denied all actuality coverage of the opinions of paramilitary apologists, even in the aftermath of incidents which would provide an opportunity to question their political sincerity or the morality of their strategy, and in the permitted reportage of their statements news value, nuances of tone and phrase, and part of the meaning are lost through delay, precis and paraphrase.

The biggest loophole in the 1988 ban was quickly spotted, and confirmed by the Home Office: broadcasters have the freedom to use film of the words being spoken, with verbatim or paraphrase voice-over. Moreover, Home Office guidance stated [27] that actors in a work of fiction were not covered.

Broadcasters have generally failed to take advantage of the loopholes. While there has been some use of the paraphrase voice-over, they have only rarely "lip-synched" the actual utterances of banned individuals. There is nothing in the ban, and no real technological problem, to prevent them doing so with either live or pre-recorded material, so long as the voice of the interviewee cannot be heard. Alternatively, questions could be put orally to a banned person and answered laboriously in writing by him live on screen. At the very least, all news reports on Northern Ireland which would ordinarily have contained material now banned could be prefaced with a

27> letter 24.10.88, from Head of Broadcasting Dept. to BBC

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

phrase based on that which is invariably used to introduce reports from South Africa: "This report has been compiled under the government-imposed reporting restrictions".

The fiction exemption would allow the broadcast of otherwise banned opinion with impunity in a dramatic context: it would be permissible, if politically impossible, to broadcast from a fictional setting, say a press conference, with actors expounding the actual views and policies of the affected organisations.

Broadcasters as thought police

One of the most disquieting aspects of the operation of the ban in both countries is that it requires broadcasters to police the airwaves to prevent forbidden opinions from slipping out. It is relatively easy to identify official spokespersons for the affected organisations, but how can one anticipate that a prospective interviewee might utter an illegal phrase?

A logical consequence of an enthusiastic approach to enforcement - and it has not been possible to establish just what has been done to date by any station or network - would be for broadcasting organisations, perhaps in association with a state or private security agency, to compile and circulate blacklists of people who are unsafe to have on live programmes. It is unlikely that those placed on such blacklists would be informed of the fact or allowed an appeal. Phone-ins would be fewer in number. Live person-in-the-street interviewing in strongly Loyalist or Republican areas would be avoided. Studio audience participation in talk shows may be restricted. This might at first appear fanciful but RTE journalists, who have laboured under their ban for almost two decades, are required, under guidelines, to ask polential interviewees whether they are members of Sinn Féin. Vetting of studio audiences is routine.

Those who have views which coincide even slightly with those of a banned organisation - for example, British people in favour of withdrawal from Ireland - have found themselves subject to interrogation about the nature and extent of their sympathies, and they may then be refused access to radio or TV (see the case of Cllr Richard Stanton of Brighton,

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Chapter 9). Over time, the blacklists will grow and a surreal "consensus" will emerge in all live broadcasts: too bad for anyone who tunes in in the hope of hearing intelligent and informed debate.

The first clumsy attempts at vetting took place within a day of the ban being imposed. Sinn Féin's London representative, Gerry Mac Lochlainn, answered truthfully that he did not "vote for" the party (which does not put up candidates in London), and so was allowed to appear illegally on BBC TV's *Kilroy* chat show.

Application of restrictions not required by the ban

From the day the ban was imposed, 19th October 1988, there were explicit suggestions that broadcasters had a public duty to apply it beyond what the law required.

The BBC news at 1 p.m. that day carried an interview with Gerry Adams, president of Sinn Féin. The ban had not yet been announced and had not come into force, so the interview might have been considered a timely and proper piece of journalism. Nevertheless, it came in for severe criticism: the *Daily Express*, quoting Tory MP Ivor Stanbrook and an anonymous minister, said the BBC was "under fire for beating the ban"; the *Daily Star* said "furious MPs blasted the BBC for allowing Adams to beat the ban", quoting the same furious MP, as did *The Sun* which claimed that "BBC bosses stuck two fingers up at the government". Stanbrook said "It shows you can't rely on the media to behave responsibly by self-discipline", the implication being that the media needed to be bound by laws.

Not all sections of the Corporation were feeling defiant that day: Radio WM, the Birmingham local station, dropped an interview with SF general secretary Tom Hartley some hours before the ban took effect.

From the Home Office [28] there came a suggestion that for the broadcasters to use a voice-over on statements, which had

28> *The Guardian* 20.10.88

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

earlier been acknowledged as being lawful, would be "against the spirit of the ban". In suggesting that broadcasters ought to act in the "spirit" of the ban, the government was clearly endorsing self-censorship.

The ban applies only to the BBC and the IBA, but cable and satellite broadcasters were quoted from the day of its inception as saying that they would "comply with" it, meaning that they would voluntarily self-censor. The Cable Authority, responsible for regulating that sector, later stated officially that its operators would have to consider themselves bound by the ban "because we are not keen for cable to be manipulated as a loophole"; when a US-based news service, CNN, expressed misgivings, the Authority threatened to "take them out of the cable network" [29].

On the day the ban was announced, Birmingham radio station BMRB became the first of many stations to drop a planned phone-in programme in case the *vox pop* contributions included some illegal opinions. BMRB also decided not to interview former MP Bernadette McAliskey, not a member of any of the 11 affected groups but a radical Nationalist whose opinions coincide to some extent with the policies of Sinn Féin.

The BBC has transmitted interviews with London Labour MP Ken Livingstone and US Senator Edward Kennedy, both of whom were mentioned in an internal memo in November 1988 as potentially affected by the ban because of their sympathies with Irish Nationalist aspirations. The memo arose from discussions on "guidelines" produced by the Corporation's Head of Editorial Policy, John Wilson, and Head of News, Ron Neil, which reportedly went well beyond the terms of the ban.

In the same month County Sound Radio in Hampshire cancelled an interview with a member of a pressure group seeking to reopen the case of the Guildford Four (imprisoned for an IRA bombing in 1974).

29> *Sunday Telegraph* 23.10.88

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Subversive singing

The banning of songs with Irish political references is nothing new: the BBC has prohibited the playing of John Lennon's early 1970s song "Give Ireland back to the Irish", and very few of the partisan ballads to have emerged from the Troubles have ever been broadcast. However, since the 1988 ban its provisions against the solicitation of support for specified organisations have been applied to any song with a tenuous connection with the causes espoused by those bodies; it has now become a vehicle for censorship of dissident artistic expression.

A particularly worrying example, because it demonstrated the willingness of the IBA to decree a unilateral extension of the terms of the ban, concerns "Streets of Sorrow", a ballad by Irish group *The Pogues*. An IBA circular in November 1988 said that the song, sympathetic to the "Birmingham Six", should not be broadcast because it "indicate[s] a general disagreement with the way the government responds to, and the courts deal with, the terrorist threat". Neither *The Pogues* nor the Six have expressed support for any of the banned groups.

In a similar case, London independent radio station LBC refused on 8th November to play a *Dubliners* recording of a famous ballad, "Kelly the Boy from Killane", dating from the United Irish rebellion of 1798; it would appear that two centuries are not enough to reduce the potency of some lyrics.

It has even been reported that broadcasters have agonised over the transmission of crowd noise from football matches - for example, Glasgow Celtic v Rangers - where Republican or Loyalist songs or chants could be expected.

Broadcasting in the Irish Republic

The Section 31 ban on "subversives" having their speech reported, let alone broadcast, is so sweeping that there are not many opportunities for journalists to choose freely whether to disseminate or censor a particular item of information. As in the UK, it is easier to point to the lack of reportage of the NI situation than it is to document instances of self-censorship.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

As also in the UK, self-censorship predated the legal requirement by many years and continues to have an effect well beyond the letter of the law.

In 1964 RTE withheld a documentary, *Radharc in Derry*, on discrimination against Catholics in the North, on the grounds that it would be "unhelpful" to show it at a time when the then Taoiseach, Sean Lemass, was engaged in a rapprochement with the Unionist provincial government under Terence O'Neill.

The documentary was finally shown on 6th September 1989, and was followed by a rather dull studio discussion which dwelt almost exclusively on the way things had changed in Derry rather than on the politics of censorship. The suggestion was, however, made by panellist Eamonn McCann that RTE then and now was reluctant to focus honestly on the issues behind the conflict in the North; he decried "the failure of RTE to describe accurately and account for the mutual loathing of working-class Catholics and the RUC", alleging that "the whole picture is distorted in the interests of responsible broadcasting". The presenter, Pat Butler, ended by asking rhetorically how many other RTE films had been shelved. The fact is, of course, that only RTE knows the answer, but it does not discuss banned programmes nor its guidelines for staff as to what may or may not be said on air.

An RTE journalist has described the editorial impact of Section 31 thus: "The ultra-cautious atmosphere which Section 31 and the guidelines have fostered in the newsroom and programme sections has meant that inquiries into controversial issues have not been encouraged. Establishment views are aired at great length, often without analysis or counterpoint." RTE's Northern editor Jim Dougal was particularly frustrated at being unable to interview Republican leaders after the Enniskillen bombing, and he voiced the unhappiness felt by UK journalists at being forced to work for the government in keeping Sinn Féin views off the air.[30]

30> *The Guardian* 20.10.88

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Self-censorship in print

Newspapers and other media in the UK are already routinely and voluntarily censored by means of the D-Notice system, whereby a joint government and media "Defence Press and Broadcasting Committee" advises editors of topics which may not be addressed on the grounds of national security. The D-Notice system, which has probably had some effect on the coverage of the NI conflict, can be bypassed but the new official secrets law will make it largely redundant by introducing legal sanctions in place of voluntary restraint. (One of the eight current notices asks that nothing be published about the operational methods of the British security and intelligence services, such as telephone tapping, discussed in Chapter 6.)

It remains to be seen whether the present British government will take the view that it would be helpful to newspaper editors, as they feel it is for broadcasters, to have censorship rules set out by means of a statute or executive order. Certainly the Home Secretary appears to believe that self-censorship is required now. Tory MP Robert Hughes put it to him in the October banning debate that "the British people look to the editors of newspapers voluntarily to understand that they do not want newspapers to be used as a platform for the IRA and its apologists". Mr Hurd replied: "The press certainly has a responsibility, just as the broadcasters have."

Even *The Sunday Times* has implied that journalists have a duty to self-censor: a recent article by defence correspondent James Adams, entitled "How the press plays into the terrorists' hands", described alleged manipulation of the media and ended: "It is the media which have to put their own house in order."

Once again, the main evidence of ongoing self-censorship is the low level of coverage which UK papers have given to the Troubles. Aside from the various anniversaries, when extensive and ill-informed comment can be guaranteed, Northern Ireland news is relegated to the inner pages and condensed to the point of evaporation.

The British readership, which foots the bill for the Troubles and is entitled to be kept informed, is thus taken quite

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

unawares by events, such as the election to the Westminster Parliament of Bobby Sands on hungerstrike, a logical development for those following the story from closer at hand. Another criticism often made of the press in Britain and the Republic is its hyping of "good news" stories, such as job creation, the Peace People movement and the widely-chronicled exploits of a British Army dog.

In February 1986 Jo Thomas was recalled from the London bureau of *The New York Times* when she started to investigate NI "shoot-to-kill" cases.[31]

Whether any of this is strictly self-censorship is hard to state; it may just be the different news values which operate at a comfortable distance from the arena, or it may be due to "news management" (see Chapter 5). It may simply be that because violence has become "normal", non-violence stories are more newsworthy.

31> *Columbia Journalism Review* 5.88

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

6. INTERCEPTION & SURVEILLANCE OF COMMUNICATIONS

The right to freedom of information is closely related to the right to privacy of the person, and more particularly of communication. In what the Universal Declaration defines as the freedom "to seek, receive and impart information and ideas" there is implicit the freedom to do so privately or publicly, without state supervision or intervention. There can be no "free" communication if it is liable to be scrutinised, recorded, delayed, withheld, altered or destroyed by a third party.

Very little has been published about the extent to which private communications in, or related to, Northern Ireland are the subject of attention by the authorities, but few commentators doubt that the mails and telecommunication systems are subject to massive routine surveillance and occasional interference. The lack of verifiable information means that this chapter can only discuss what might be happening, and under what legal authority. Certainly the legal powers, the facilities and the technology are available, and it seems improbable that they would not be extensively deployed in the interests of the anti-terrorist effort. There are three levels of possible activity.

Traffic analysis

The purpose of monitoring the flow of communications, as opposed to directly interfering with them, is to build up background intelligence on the activities and contacts of persons and organisations, and to collect information which may be analysed later in a more specific investigation. Two

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

examples will illustrate the usefulness to the state of what is called "traffic analysis", "call logging" or "metering" in relation to telecommunications (including telex, telegram and fax, but mainly voice telephone traffic).

Firstly, by noting the frequency and source or destination of calls to or from a particular telephone, one can assess the subscriber's political affiliation and his or her place in the hierarchy of the organisations concerned. Secondly, by retrospectively analysing such flows one can work out who called someone just before something else happened; for example, what telephone was used to convey a paramilitary communiqué to a news agency.

The replacement of older telephone exchanges in Northern Ireland, and indeed in the rest of these islands, will enable security agencies to link directly into the computers which handle telephone traffic in the "System X" and later digital exchanges, without the need for physical placement of metering devices at some point on the lines. Whereas the old system meant that only a limited number of lines could be analysed, and physical evidence was present, the new system means that data relating to any telephone and any period of time can be retrieved quickly and unobtrusively.

Traffic analysis on a massive scale can be as useful to a security agency as actually listening in to telephone calls, and has the added advantage that it is subject to very little legal regulation because communications are not listened to or interfered with: only the "externals", meaning source, destination, time and so on, are considered, and a court is obliged to accept a ministerial statement citing national security as justifying the metering of any particular line.

In relation to mails, nothing of value can be extracted from looking at postal packets unless the sender gives a correct name and address or some other significant wording on the outside. The only exception is in monitoring outgoing mail, if it is possible to identify the sender.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Interception

By interception is meant actually listening to and/or recording telephone calls, and opening mails. The term can also cover electronic eavesdropping on private conversations, on computer screens or on other forms of communication.

Telephone tapping covers a variety of activities, from the screening or "trawling" of large numbers of calls (which can be done automatically) to pick up particular words or phrases, to the recording of every call to or from a particular number, from anywhere along the line or from a distance. It includes telephone-based bugging systems capable of picking up sounds throughout a room or building. The technology available as of the mid-1980s is described in Fitzgerald and Leopold 1987 (see Sources); the main point, as with traffic analysis, is that the procedures are very much easier after the introduction of programmable digital systems where just a few key-strokes at a Telecom operations centre will connect a third line, instantly and invisibly, to a two-way conversation.

Although UK law on telephone tapping was supposedly formalised in 1985 with an Interception of Communications Act (prompted by a European Court case, *Malone v UK*), the Act exempts official interception from any penalties provided that it occurs under a ministerial warrant. Each warrant can be used for a very large number of taps and can be renewed indefinitely.

Concerning Northern Ireland, the Act would seem to allow for a single warrant to authorise the tapping of the telephones of every member of a particular party or group and of anyone likely to speak to any member. The government consistently refuses to issue statistics on tapping in the province, and those issued on the rest of the UK are of little use given the scope of each warrant and the probability of unauthorised tapping.

The Army is thought to have been the main tapping agency in Northern Ireland at least into the 1970s. The microwave trunk lines across the Irish border are said to be monitored by army bases on Divis Mountain, near Belfast, and Clooney Park, Derry. The domestic security agency, MI5, is also said to be involved, and the RUC Special Branch would probably

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

handle any tapping at local exchange level. According to Fitzgerald and Leopold, The Secret Intelligence Service - MI6 - co- operates with the signals intelligence agency, GCHQ, in running a microwave telephone tapping unit from inside the British Embassy in Dublin. (A similar MI5 scheme was referred to by Peter Wright in *Spycatcher*.) This assertion has not been contradicted and there appears to be no lawful basis for such activity in another country.

The IRA, and presumably other paramilitary groupings, have also resorted to telephone tapping, though infrequently and by means of old-fashioned "hard-wiring" to particular lines or street junction boxes.

Opening mails - or examining the contents without opening, for example by photographing letters against special lights - is one of the oldest forms of intelligence activity and it would be surprising if it did not happen extensively. There is much anecdotal evidence. It has been said that the technology is now so sophisticated that letters which arrive open are less likely to have been the subject of security attention than those which are intact.

In the UK, successive Post Office Acts since 1711 have authorised government ministers to issue warrants permitting the opening of mail. It is unlikely, however, that most of the interception is conducted under the cumbersome procedures of the current 1969 Act; a great deal of it may have been happening informally, but an easier legal instrument has now become available.

It is possible for anyone acting under the authority of the 1989 Prevention of Terrorism Act to open and examine letters provided that they satisfy a justice of the peace that they are doing so in the course of a "terrorist investigation": the permissions issued under the PTA cover not only known documents in a specified location, but material "expected to become available" to a stated address within 28 days. Security agencies with access to postal sorting offices and armed with a list of addresses would then be allowed under monthly-renewable warrants to open and read every piece of mail sent to those addresses. Such activities may well have gone on for many years before legal authority was granted by the PTA.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

In the Republic of Ireland the Minister for Justice is authorised by statute to issue a warrant allowing the opening of post addressed to a named person, and custom and practice also allows the Minister to issue such warrants to cover telephone taps. Present arrangements for telephone tapping have been acknowledged to be in violation of the European Convention on Human Rights following the European Court's judgement on the similar UK arrangements (Malone Case). However, no legislation to provide safeguards against abuse has yet been introduced in the Oireachtas. The Dail has been assured that warrants are only signed when necessary for preventing or detecting crime, or to safeguard national security, but no statistics have been issued and some flagrant abuses have come to light.

There were persistent rumours of widespread tapping in the last months of 1982. It was revealed by journalist Peter Murtagh that those affected included two political columnists, Geraldine Kennedy and Bruce Arnold, and it later emerged that a Cabinet Minister was also tapped. The then Fianna Fail Justice Minister, Sean Doherty, a former policeman, was forced to resign from the Cabinet when the facts were revealed. The Garda Commissioner and his deputy also resigned. The journalists were awarded damages by the High Court for breach of their constitutional right to privacy.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

7. ELECTORAL LAW

Some of the most important restrictions on free speech and freedom of information in Ireland and Britain arise not from special legislation but from restrictive measures in ordinary law, and the exercise of executive or judicial authority. One field in which non-emergency legislation restricts freedom of expression is electoral law.

Election deposits

For a political party which contests elections, the most valuable freedom of information is the ability to communicate policies and views directly to the electorate. The law in these islands and elsewhere provides both incentives for electoral communication (such as free postage) and restrictions upon it (such as airtime limits).

Candidates for election to the UK Parliament, to Dáil Eireann (the lower house in the Republic of Ireland) and to the now-suspended parliamentary assemblies of Northern Ireland have to lodge a cash deposit, forfeited if the candidate fails to secure a set proportion of the votes. However, no charge is made for successful candidates, or losers who pass the percentage threshold; the effect of the deposit requirement is that minor, fringe or frivolous candidatures are discouraged.

For a small political party a severe burden is imposed by the requirement to gamble with deposits. The mainstream parties, better able to retain their deposits and less affected by the occasional loss of a few, enjoy mailing privileges and media access while the rest, including those whose commitment to electoral politics is already equivocal, are discouraged from participating.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

The amount raised by the forfeiture of deposits is an insignificant proportion of the total cost of running a democratic election, and if society is prepared to pick up the rest of the tab, there is a case for not imposing an entrance fee.

Electoral oaths

On the evidence of the past twenty years, paramilitary violence cannot be defeated by military might; it takes only a few determined individuals to mount a prolonged and costly guerrilla campaign. A more effective way to end the violence might be to convince those who now advocate it to turn to electoral politics as a more ethical and ultimately more effective strategy. The British government has, however, erected a new legal obstacle to electoral participation by requiring candidates for public office within the province to swear an oath renouncing violence.

The Elected Authorities (NI) Act 1988 also disqualified those convicted of criminal offences from council office and stipulated a five-year ban from office for councillors expressing support for terrorism or for a proscribed group.

Junior Minister Richard Needham, introducing the Bill, made it abundantly clear that it was a censorship measure: it would "make it very difficult for the supporters of violence, once elected, to parade their views to the revulsion of councillors and the disgust of the overwhelming majority of the electorate". This tacitly acknowledged that there was a minority of electors whose views would similarly be silenced.

The measure went directly against the advice of the government's own Standing Advisory Commission on Human Rights (SACHR), which said that it was "fundamentally wrong [to] devise artificial means to exclude councillors from local politics; such policies cannot hope to succeed in the long term." Evidence that the government had its own doubts about the measure may be seen in the fact that responsibility for enforcing the oath was left to any member of the public through initiating a private prosecution. For its part, Sinn Féin announced that its candidates would sign the declaration; the smaller Republican Sinn Féin said that its candidates would not.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

A comparable obstacle, viewed from the standpoint of the Nationalist community in Northern Ireland, is the parliamentary oath of allegiance. Nationalist MPs, and republicans among British MPs, have found it possible to take this oath. On the other hand, the oath question is one of transcendent importance to the Irish Republican movement.

The removal or reformulation of the parliamentary oath may not enable such as Gerry Adams MP to enter the House - there is also the question of whether entry recognises Parliament's right to rule Northern Ireland - but it is certain that he cannot, by his own lights, enter the House under that condition. His right to speak for the people of West Belfast is founded on the same principle as makes the British Prime Minister the representative of Finchley. The oath restricts his right to impart his opinions in the assembly to which he was elected, and so is an obstacle to the cessation of the violence by which his movement currently expresses itself.

Electoral relevance of the broadcasting bans

In an information-based society, public representatives are expected to use the mass media to convey the views of their electorate. It has become one of their essential functions. The Section 31 ban in the Irish Republic, and the 1988 ban in the UK, diminish the effectiveness of dozens of properly elected councillors and one MP by denying them equal access to the broadcast media. This thus constitutes an interference with the rights of electors and elected, and imposes a considerable handicap on the operation of what is, as yet, a legal political party. Despite the relaxation of the UK ban just before elections, unaffected parties have a government-imposed advantage so that elections cannot be said to take place freely and fairly.

Other restrictions on political expression

Civil servants in certain grades or types of employment are prohibited from standing or canvassing in UK elections, holding office in political parties or expressing political views

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

in public speeches or publications. (A Foreign Office civil servant, Patrick Heseldine, was dismissed in July 1989 for sending a letter to *The Guardian* criticising Mrs Thatcher's attitude to the extradition of alleged terrorists.) In the Irish Republic civil servants may not join political parties. Members of the forces are banned from political activity by both states, and there are proposals to restrict the political activity of UK local government employees.

In April 1988 a community worker, Roisin McDonagh, was suspended from her post with Belfast City Council for writing a commissioned article for *The Irish Times* about the "mood of despair" in West Belfast. She was reinstated on condition that she submit future publications for vetting.

A minor restriction on electoral freedom of expression in the Irish Republic is the rule that only parties registered with the Clerk of the Dail may have their names printed on ballot papers.

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

8. OFFICIAL SECRECY AND ACCESS TO INFORMATION

One of the rights held by article 19 of the Universal Declaration to be a component part of the right to freedom of expression and opinion is the "freedom to... seek [and] receive... information". As the state is one of the principal manufacturers and repositories of data, each citizen should have full access to information held about him or her, or in relation to government policies and activities, with reasonable exceptions to preserve public safety, the proper functions of government, or other genuine public interests. Access is of particular value in relation to potentially prejudicial information about the individual, such as that held by security services, or in relation to activities which may involve the abuse of public trust or funds. Those are, of course, precisely the areas in which access is most difficult.

Official Secrets Acts

Ireland and the UK are not exactly bastions of open government; both states have a long tradition of virtually clandestine operation of Cabinet, ministries and public authorities, with legislation (called, in both states, the Official Secrets Act) defining state secrets in such sweeping terms as to illegitimise almost any disclosure of information gathered or produced by servants of the state. (In practice, of course, efficient government requires frequent breaches of the strict provisions of the law; selective leaks of politically sensitive information, although sometimes punished where they involve civil servants, have since the 1960s been a routine practice of government ministers.)

Under the pressure of insurrectionary violence officials of both states have used these far-reaching secrecy laws to

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

conceal information which many would consider essential to informed public debate. In both states they are mainly used coercively rather than reactively: that is, to encourage public servants to respect confidentiality by requiring them to sign a declaration of secrecy. Actual prosecutions are rare.

In the UK, the replacement in 1989 of the Official Secrets Act 1911 with an even more repressive version is most unlikely to result in a relaxation of secrecy on Irish political and security issues. There are no plans to update the Republic's 1963 Act.

Intelligence agencies

Despite the currency in both the UK and Ireland of the doctrines of parliamentary supremacy, ministerial authority and judicial review, both states have developed a cult of secrecy about the activities of their intelligence services, a cult so pervasive and persuasive that parliaments, ministers and judges have held themselves to have no right to oversee, question or examine the operations of the services or the legitimacy of the information on which they act.

The state has a need to gather information on threats to public order and national security. While it is clear that the collection of certain types of information requires a degree of secrecy, the excessive secrecy in Britain and Ireland as to every aspect of the structure, resources and activities of such agencies results in the abuse both of the powers granted the agencies and of the information gathered.

Intelligence agencies include domestic and international espionage and counter-espionage services, the political (Special) branches of the police forces, signals intelligence bodies and the other military and civilian institutions responsible for collecting and analysing information for the government. The term can also be used more loosely to include covert police or army anti-terrorist, propaganda or disinformation units.

There are three main areas of potential abuse. The agencies may collect more information than is legitimately required, encroaching on the privacy of the individual; they may operate

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

improperly or illegally in the course of their information-gathering activities; and they may make illegal or improper use of the information they possess.

Excessive intelligence gathering

The security forces in Northern Ireland hold a fantastic volume of intelligence information about the general population. As long ago as the mid-1970s Robert Fisk was writing in *The Times* of Army officers in Belfast boasting how they could check with a computer on such details as whether the wallpaper in a given house had been changed since they last searched it. At about the same time the Army was carrying out extensive "census" operations across the province. Police files include not just criminal records but criminal and political intelligence; in both states the police are able to take and retain fingerprints and photographs of unconvicted persons, and in the UK that also applies to DNA typing material.

At the police or military roadblocks which are a constant feature of life in the more troubled areas (approximately 10 million cars are stopped per year), radio links are used to check personal details. One is required under the EPA to give certain information - name, point of departure and destination - but more is frequently asked for, including address and date of birth, and proof of identity is almost always demanded (NI driving licences incorporate a plastic identity card). Declining to answer non-compulsory questions invites hostile treatment, delay and inconvenience, but even criticism of excessive questioning in the government's own annual review of the EPA (undertaken by Lord Balville) has not halted it.

Quite apart from the issue of whether the state has a right to hold so much secret and personal data on its citizens, there is a price to be paid for its collection. Civil liberties are breached in the massive effort required to assemble and update this vast database; even the most loyal and peaceable of citizens are subject to constant questioning at roadblocks, analysis of telephone calls and monitoring of movements. The zealous collection of information, while it assists in identifying and investigating suspects, contributes to a general climate of paranoia and resentment in the most affected areas.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Impropriety by intelligence services

Well documented elsewhere, but shortly to be withdrawn by law from the right of information and comment, are abuses of power by the British intelligence services in the 1960s and 1970s, including an apparent conspiracy within MI5 around 1974 to destabilise and overthrow an elected Labour government. It has been alleged that the security services in Northern Ireland were involved in that conspiracy.

Disinformation and psychological warfare operations, consisting largely of feeding false rumours to the media, distorted the public perception of events there to an unknown and probably unknowable extent from the early 1970s onwards.

Possibly the most notorious recent abuse of the concept of official secrecy in relation to the Troubles was the order given to certain RUC officers that they should obstruct an investigation into claims that the force had a "shoot-to-kill" policy in relation to IRA suspects around 1982. The policemen were instructed that to tell the truth would be a breach of the oath they had taken under the Official Secrets Act, and that they were consequently bound to perjure themselves. Vital evidence held by MI5 was destroyed or withheld from the investigators led by John Stalker, who was replaced for what were widely regarded as political reasons. The Stalker revelations, which were not followed by prosecutions, worsened the image of the security forces in the eyes of the Nationalist community.

The Special Branch, as the main intelligence agency in the Republic, has also been accused of abusing its information-gathering powers. During the 1983 campaign against a constitutional amendment prohibiting abortion, Christy Moore and other supporters of a pressure group called Musicians Against the Amendment were allegedly placed under Special Branch observation.[32]

32> *Sunday Tribune* 3.9.89

Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

Abuse of secret information

There was considerable concern in September-October 1989 (when this report was prepared) over the apparently unauthorised transfer of intelligence data to Loyalist paramilitaries.

On 25th August a Catholic, Loughlin Maginn, was murdered by a UFF gang working from official intelligence briefing material later shown to a reporter. Although government ministers stated that any such leaks would be punished "with the full severity of the law", and two UDR soldiers have since been charged in connection with the Maginn case, it emerged in early September that a British Army corporal, Cameron Hastie, convicted in connection with a similar transfer of intelligence information to the UVF in 1988, had been retained by his regiment.

On 6th September another intelligence document containing photographs and personal details of nine Republicans was reported missing from a UDR base in Ballykinlar, and it was later revealed that two similar documents had disappeared from Dunmurry RUC station. Other briefing documents and photographic montages of "suspects" turned up from apparently Loyalist sources during the following weeks, bringing the total of compromised "suspects" to around 600, and a major police investigation was announced.

There had been some previous incidents, with documents turning up in a UVF cache in 1987, leading some to conclude that many cases had gone undetected or unreported or that collusion with Loyalist terrorists was widespread and official.

Access to information

Neither state has a law guaranteeing full access to personal information held by governments or private bodies. Their Data Protection Acts, which gave individuals the right to inspect computer records on them, specifically excluded most security information.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

One consequence is that people who are denied employment in institutions such as the electricity and telecommunications services, and firms who are denied government business, on the grounds of a supposed security risk ("Section 42" cases) have no way of ascertaining or challenging the information used.

Likewise, voluntary bodies can be denied public funding on the basis of secret and unchallengeable "security" information. A celebrated case is that of the Conway Mills community resource centre in West Belfast.

Police accountability

The new Chief Constable of the RUC, Hugh Annesley, said during the leaked files controversy in September 1989 that "a clear facet of honest policing is the disclosure of information which the public have a right to know." [33]

The Police Authority for Northern Ireland - an appointed body to which the RUC is partly answerable - is responsible for the expenditure of £1,000,000 of public money per day, but does not publish an annual report. The names and qualifications of members of the Authority are not disclosed for security reasons, which inevitably detracts from the credibility of the Authority and from the whole notion of police accountability to the public.

Official disclosure of information

As well as the withholding of information on legal or security grounds, there are some problems with the official release of non-secret information. One area of concern is inconsistency of data on the operation of the emergency legislation (numbers arrested or questioned under the PTA, EPA and so on). Statistics on house searches by the security forces relate the number of searches to the volume of illegal items, for example bullets or explosives, which have been found; the government has never reported the ratio of unsuccessful searches - where homes may be virtually

33> *The Guardian* 22.9.89

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000

destroyed, to no effect other than antagonising the residents - to successful searches, i.e. where something is found. Statistics have recently been revised to show that only 263 houses were entered in the first half of 1988 rather than 1,752 as previously stated.

Many parliamentary questions on the Troubles are replied to incompletely or not at all, either because of a policy of not commenting on security issues or because of the supposedly inordinate cost of compiling the information. Another manoeuvre, as used in response to an April 1988 question on RUC conduct, is to give written answers to avoid follow-up questioning.

It is often difficult to obtain reliable information from official sources on matters of public interest. The NI *Yearbook*, which gave a wide range of socio-economic and political data, is no longer published. Different branches of the government issue conflicting statistics on, for example, the sentencing of prisoners, or complaints against the RUC, due perhaps to inefficiency but with the effect of muddying the waters for outside investigators.

The non-cooperation of a public body may result in the censorship of the media. In 1977 the RUC refused to give an interview for a Thames TV *This Week* programme on maltreatment of detainees. The IBA insisted that the programme could not go ahead without a "balancing" contribution from the RUC, and Thames had eventually to accept a five-minute RUC statement to camera with no opportunity to question the speaker.

On the positive side, it should be noted that in September 1989 the British Army decided for the first time to release (to *The Guardian* newspaper) politically sensitive statistics on the number (239) of serious criminal convictions of soldiers serving in Northern Ireland in the previous two years. The Army refused to allow an interview or give figures for unsuccessful prosecutions or complaints not prosecuted.

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Source: https://www.industrydocuments.ucsf.edu/docs/xrvl0000